FOR MYSORE STATE

Scott. II-15—78,406—3-11-53.

Home (Transport I) **(1954) Department.**

RT **SERIES.**

G.O. No. 3784

Dated 21.12.54.

Passed by Supdl. d

[Despatch Abstract.]

M.V.s — Taxation — South Kanara District lorry MDX 1838 belonging to Sri. N.M. Rao — Refund of proportionate tax Sanctioned

REVENUE DEPARTMENT:

Subject:

MOTOR VEHICLES-South Kanara District-Kasargod Taluk-Motor Vehicles Act-INDX 1838-Proportionate Provincial tax paid by the Rural Engineering [illegible]-refund-Rejected-Appeal Report Submitted;

ASSISTANT SECRETARY TO GOVERNMENT
18 MAY 1954
HOME DEPARTMENT

B.P.nt.2397/54 **Station:** M A D R A S: **Dated:** 13rd May 1954:

From

Sri W.R.S. Sattianathan, I.C.S., Commissioner of Land Revenue

Sri P. Sivasankaran Pillai, I.A.S., Secretary, Board of Revenue.

Read: Petition from Sri N.M. Rau dated 26-11-53
Dt.Magistrate South Kanara Ref:C:6:10 33/53(1) d/31-12-53 & 9-3-54:--

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70416/54

RESOLUTION:

Submitted to Government.

2. The Board submits that according to the notifications under section 5(1) of the Madras Motor Vehicles Taxation Act, refund is admissible (1) when the licence was granted on or after the last day of the second month & (ii) when the licence was surrendered within a reasonable period after the expiry of the quarter. The application for refund in this case is alleged to have been filed on 11-10-52 when the tax for the quarter ending 30-9-52 was paid on 9-9-52. As the petitioner had no licence till he paid the quarterly tax the vehicle would not have been put on road. ~~He has however paid the quarterly tax the vehicle would not have been put on road.~~ He has however paid the quarterly tax before the expiry of the quarter and the licence was issued on 9-9-52. This satisfies the condition (i) against item (f) in the notification referred to above

X. Before the expiry of the quarter

3. The Board invites the attention of the Government to their order No.1613 Home dated 15-5-53 in which condition (ii) was ordered to be omitted. The claim for refund arose prior to the issue of the G.O. in December '52 when the petitioner applied in the first instance on 11-10-52 (after ~~the~~ expiry of the quarter) and that the vehicle was not put on road during July and August '52. The Board however considers that the claim appears to be bonafide and that the

X. again for refund. The petitioners plea is that he applied

PTO

petitioner in equity is eligible for refund of the proportionate tax.

For Secretary

To

The Secretary to Government Home Department with enclosure
Copy to the District Magistrate, South Kanara.
NS 13-5

Copy of Petition from N.M.Rau dated 26-11-53:

M.L.Dis.7963-53 dated 6-10-1953 of the District Magistrate South Kanara Mangal

The petitioner, being highly aggrieved by the orders passed by the District Magistrate of South Kanara in M.L.Dis:7963/53 begs to prefer this petition on the following among other grounds and begs to submit as follows:--

1. That the order passed by the Dist.Magistrate South Kanara in M.L.Dis. 7963/53 is incorrect, unjust and opposed to all canons of justice.

2. That the petitioner is the proprietor of the Rural.Engineering Company, Kasargod owning a Lorry MDX 1838. The lorry was taken out in the month of September 1952 after obtaining the certificate of fitnesses. The petitioner was required by the concerned authorities to pay the tax for the entire quarte i.e.July-September 1952 instead of the proportionate tax for one month. Accordingly the petitioner pe remitted a sum of Rs.360/-(Rs.Three hundred & Sixty only) being the tax for the entire quarter i.e.July -September 1952 in the sub-treasury, Kasargod, So much so, when the vehicle was put on the road in September 1952 the tax for the entire quarter July-September 1952 was paid into the Sub-tr asury, Kasargod under chalan No.562 dated 9-9-1952.

3. That soon after the end of the quarter ended on 30-9-52 the petitioner surrendered the tax token and the duplicate of the chalan along with an application praying for refund of the excess tax paid by him for the months of July and August 1952 to which he is entitled. The application for refund along with the tax token and the chalan duplicate was sent to the district Magistrate, South Kanara by the petitioner on 11-10-1952 by post. No action was taken on the aforesaid petition for a long time and thereupon the petitioner made enquiries in the office of the Dist.Magistrate when he was told that his application dated 11-10-1952 could not be traced in the Office and the petitioner filed a fresh application for refund of the tax on 2-12-1952. Since no action was taken by the Dist.Magistrate and the petitioner after waiting patiently for about three months filed one more application praying for early action in th matter on 31-3-1953 However, in Ref:C:6:68/53 dated 22-4-1953 the learned Dist.Magistrate informed the petitioner that the matter was under correspondence with the Sub Treasury officer, Kasargod and that further action would be taken on receipt of his reply.

4. That the petitioner understands that the Sub-Treasury Officer, Kasargod has communicated to the District Magistrate that the tax in question was paid by the petitioner under chalan No.562 dated 9-9-1952 Even after this, the learned Dist.Magistrate passed orders in M.L.Dis. 68/53 dated 27-7-1953 that the application dted 11-10-1952 together with the tax token for the quarter ended 30-9-1952 in respect of Lorry MDX 1838 has not been received in his office and so rejected the petitioner's application and confirmed the same order in M.L.Dis.7963-53 dated 6.10-53.

5. That the aforesaid orders passed by the learned Dist.Magistrate without finding out as to how and why the application filed by the petitioner dted 11-10-1952 could be missed in the office is clearly unjst and far from satisfactory. Therefore under the circumstances the petitioner prays that the Honourable members of the Revenue Board may be pleased to call for the connected papers from the District Magistrate of South Kanara, Mangalore in M.L.Dis:7963/53 and after holding a detailed enquiry into the matter redress the greivence of the petitioner.

/True copy/

Copy of Ref:C:6:10333/53(1) dated 31-12-53 from the South Kanara Collector.

MAD AS MOTOR VEHICLES TAXATION ACT-South Kanara Dist-Kasargod Taluk-Lorry MDX.1838-Refund of Provincial Tax-Petition to the Board Report-

L:2493/53-1 d/13-12-53 of the Board of Revenue Madras.

The main allegation in the petition of Sri N.M.Rao,Prop.Rural Engineering Co.,Kasargod that he had sent the tax token and the duplicate chalan receipt along with his application d/11-10-52 & that no action was taken by the Dt Magistrate S.Kanara is not correct. The application d/ 11-10-52 & the enclosures said to have been sent along with that application were not received in my office.

An application d/2-12-52 was received in my office only on 3-1-53 & action for the refund of the tax was taken on that application. This application was finally rejected in M.L.Dis:68/53 d/27-9-53 & the applicant

PTO.

was informed that his application d/11-10-52 together with the tax token for the quarter ended 30-9-52 in respect of his lorry MDX 1838 was not received, and that in the absence of the said token or proof to show that it was surrendered soon after the quarter ended 30-9-52 the refund applied for cannot be granted.

3. further in M.L.Dis:7962/53 d/8-10-53 he was informed that, without any proof to show that the token was surrendered on 11-10-52, there is no ground for reconsidering the orders once passed in M.L.Dis: 68/53 d/27-7-53 as he had not produced any proof to that effect.

4. The records of M.L.Dis:68/53 and 7963/53 and the other enclosures received with the Board's reference cited are enclosed.

/True copy/

Copy of Ref:C:6:10333/53 dated 9-3-54 from the South KanaraCollector

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MOTOR VEHICLES-South Kanara Dist-Kasargod Tk-Lorry MDX 1838-Proportionate Provincial tax paid by the Rural Engineering Co-Refund-Refused appeal to Board-Further-Report Submitted.

Board's L 2493/53-2 dated 8-2-54

The information required on the three(3)points raised by the Board in its reference cited is furnished below. Point I: The procedure followed in this office is that on receipt of an application for the refund of Motor Vehicles Tax, action is taken to conduct the formal enquiries and the question as to whether the refund application is in order or not is considered while disposing of the application finally.

Point 2: It is not known whether the applicant had sent his application by Regd.Post and through which Post office. This information wil be obtained fromthe petitioner and reported to the Board shortly.

Point 3: The refund in this case was refused as there was no proof to show that the licence under the Madras Motor Vehicles Taxation Act was surrendered on 11-10-52, as required under condition 11. to item (f) of the notification under Sec.5(1) (b) of the M.V.T.Act. But this condition has been ordered to be omitted in the amendment issued in G.O.No.1613 Home dated 15-5-53, In view of the omission of this condition there is no objection for ordering the refund. The records received with the Board's reference are enclosed.

/True copy/

For Secretary

NS 13 5

Home (Tr.I) Dept.

Endt. no. 70416 Tr I/54-1 d/ .5.54

Referred to the Secy. C.R.T.B. for remarks.

To The Secy. C.R.T.B. Madras (with copy of pp 1-4 above)

R.D:- 15/6/54.

Home (Tr I) Dept

Grind
Cy 5/54
.25/54

1st Memo. No. 70416 Tr I/54-1
d/25.5.54

M/s Taxation South Kanara
Dist Lorry MDX 1838 belonging
to Sri. N.M. Rao - Refund of
proportionate Tax.

10
20/5

1-4 c.F

From the Bd. of Revenue. Letter
No. B.P. Rt. 2397/54. d/13.5.54
(Copy sent to the
Collr. ~~B Dist~~ South Kanara)
under notification

Bfr 52 (1) on p 418 of the R.T. Code (1953
edition) Tax for using a vehicle
during the last month of a
Quarter is only 2/5 ths of the
quarterly tax. The petitioner,
c/f 'S' on p 3c F in ¶ para 2 of his letter
d/ 26.11.53 says that the
lorry in question was taken out
in the month of September 1953
after obtaining the certificate
of fitness and that he was
required by the Concerned
authorities to pay the tax for
the entire quarter ending 30.9.53
instead of the proportionate
tax for one month The
Collr. of S. Kanara is requested
to state whether this statement
'S' on p 3c F of the petitioner is correct. The

P.T.O.

6.

report should be submitted through the Secy. C.R.T.B. Madras.

21.5.54

25/5/54

27/5/54

To

The Collr. of S. Kanara.

The Secy. C.R.T.B.

(with a copy of pp. 1-4 c.f.)

R.D. 20/6/54.

Recd. 21/6/54

C.F. 32—14,67,656—21-3-52.

Department	Received ____ Registered ____
From (Name) [illegible]	To
Designation Secretary,	The Government,
Station Central Licensing Office, [illegible],	[illegible] Regional Transport Authority, Madras. (with encl.)

Enclosures: Nil. No. 24dcr 6/xx, dated 12-9-52. 195

Sir,

Sub: Motor Vehicles Act - Application for South Kanara District Lorry and Taxi Belonging to Shri N. Ramachandra Bhat - Refund of proportionate tax - Reply - submitted.

Ref: Your letter No. 9.70x13/M.I/52-1 dated 25-8-52.

In the Government memo cited, the Government quoted the specific remarks of the Collector of South Kanara on the point made by the petitioner namely that he was required by the concerned authorities to pay the tax for the entire quarter ending 30.9.52 instead of proportionate tax for one month. A copy of the letter received from the Collector of South Kanara, M.M.P. 3678/52 dated 1-7-52, is enclosed. It will be seen from it that the Collector has merely forwarded a copy of the report of the Regional Transport Officer, Mangalore, in which he has stated that there is nothing on record in his office to show that the petitioner was directed to pay tax for the entire quarter ending 30-9-52.

2/ In the case before the Regional Transport Officer has expressed the presumption that the Licensing Officer might have insisted on the payment of full tax. The Collector however has not confirmed this presumption. A further report has been called for from the Collector on this point and it will be submitted to Government on its receipt.

Yours faithfully,

for Secretary.

S. No. 13.9.

M.L.Dis. 3372/54.

S.Kanara Addl.Dt.Magistrate(I)'s Office, Mangalore dated 21.7.1954.

From

31554

Sri J.Seetharama Serval, B.A.
Addl.Dt.Magistrate(I) S.Kanara,

To

The Secretary to the Government,
Home Department, Madras.

Through,

The Secretary, Central Road Traffic,
Board, Madras

Sir,

MOTOR VEHICLES - Taxation - South Kanara District - Lorry MDX. 1838 - belonging to Sri N.M.Rao. Refund of proportionate tax. report submitted -

Ref: Govt.memo.No. 70416/Transport.1.54.1.dated 25.5.54.

I submit herewith a copy of the report received from the Regional Transport Officer, Mangalore in the matter.

Yours faithfully

23/7/54

For Addl.Dt.Magistrate (I)
S.Kanara.

Encl:1.copy of L.Dis. 10239/54.dated 6.7.54 of the R.T.O.Mangalore.

Copy of L.Dis. 10239/54.dated 6.7.54 from the Regional Transport Officer, S.K. to the Dt.Magistrate.

Motor vehicles - Taxation - South Kanara - Lorry MDX. 1838 - belonging to Sri N.M.Rao Refund of proportionate tax -

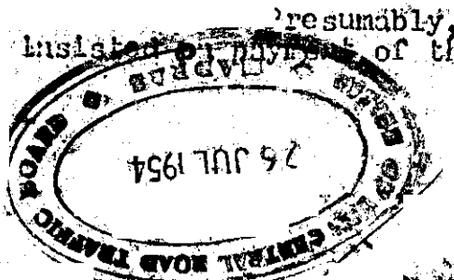
Ref: Your Endt.Ref. 3672.54.C6.dated 6.6.54.

Sri N.M.Rao, owner of Lorry MDX. 1838, was ~~also~~ asked to ~~the~~ produce the relevant records in which he was asked to pay tax for the entire quarter ended 30.9.52. In reply he has sent the Registration Certificate and copies of certain report of stoppage of the vehicle from 1.7.52. The Registration Certificate shows that the vehicle has no valid fitness certificate from 1.3.52 to 9.9.52.

There is nothing on record to show that he was directed by this office to pay the tax for the entire quarter ended 30.9.52.

Presumably, the Licensing Officer, might have insisted payment of the full tax.

True copy-



Sd/- for perusal of pp 13-15 above.
Further report promised at P on p13 not received
16.9.54

C.F. 52—14,67,656—21-3-52.

Department	Received ——— Registered ———
From (Name) Sri. C. Raghupathy Rao Naidu, B.A.,	To
Designation Secretary,	The Secretary to Government,
Station Central Road Traffic Board, Egmore, Madras.	Home Department, Fort St. George, Madras. (with encl.)

Enclosures Letter No. 22448/D2/54, dated 18-10-54. 195

Sir,

Sub; Motor Vehicles -Taxation -South Canara district - Lorry MDX 1838 -belonging to Sri N.M.Rao -Refund of Proportionate tax -Further report submitted.

Ref; 1. Government memo No.70416/Tr.I/54-1 Home dated 28-5-54.

2. Central Board's letter No.22142/D2/54 dated 12-9-54.

In continuation of its letter cited, the Central Board submits herewith a copy of the further report of the Collector South Canara district dated 12-10-54. The Collector reports that there is nothing on records in the office of the Licensing Officer Kasaragod to show that the petitioner Sri N.M.Rao was directed to pay tax for the entire quarter ended 30-9-52 in respect of his vehicle MDX 1838. In the circumstances, the statement of the petitioner does not appear to be correct.

for Secretary.

s.r.19.10.

p.t.

12

Copy of letter Ref.C6.10333/53 dated 18.10.54 from the Additional District Magistrate (I) South Kanara to the Secretary, Central Road Traffic Board, Madras.

Sub; Motor Vehicles -Taxation -South Kanara district lorry MDK 1838- Belonging to Sri N.M.Rau -Refund of proportionate tax - Further report.

Ref; Your letter No.22442/ D2/54 dated 12.9.54.

It is reported that there is nothing on records in the office of the Licensing Officer, Kasaragod to show that the petitioner Sri N.M. Rau was directed to pay tax for the entire quarter ended 30.9.52 in respect of his vehicle MDK 1838.

(True copy)

For Secretary.

s.a.19.10.

b

Home (Tri) Dept 13

Memo. No. 70416 Tri/54-2

d/ 1-11-54.

M. Vs - Taxation - South Kanara Dist - Lorry MDX 1838 belonging to Sri. N.M. Raw - Refund of proportionate tax.

11-12 eF: From the Secy. C.R.T.B. Letter no. 22442/D2/54 d/ 18.10.54.

The Secy C.R.T.B is requested to report specifically whether proportional tax for July and August 1952 may be refunded to Sri. N.M. Raw in respect of his Lorry MDX 1838

CENTRAL ... Received ... 1954 ... Despatched ... Initials

To
The Secy.
C.R.T.B.
Madras

R.D. 15/11/54.

N.R.D 5/12/54

d 30.10.54

1.11.54

C.F. 82 (c)—(70,10,558—20-1-54.

Department	Received ——— Registered ———
From (Name) Sri C. Raghupathy Rao Naidu, B.A.,	To
Designation Secretary, Central Road Traffic Board,	The Secretary to Government, Home Department, M a d r a s.
Station Egmore, M a d r a s.	

Enclosures: Letter No. 46284/D2/54. dated 22-11-54. 195

Sir,

Sub; Motor vehicles -Taxation -South Kanara district - Lorry MDX 1838 belonging to Sri N.M.Raw -Refund of proportionate tax =

52229 p13 25/11/54

Ref; Home department Memorandum No.70416/Tr.I/54-2 dated 1-11-1954.

The Regional Transport Officer, Mangalore who was consulted has reported in his letter No.21607/54-C dated 13-11-54 that lorry MDX 1838 had not used the public road during July and August 1952, that stoppage report in respect of the lorry for quarter ending)-9-52 was received in his office, that the vehicle had no valid itness certificate during July and August 1952 and that it was it on the road in September 1952 . In the circumstances set out bove, the Central Board recommends sanction by Government of the efund of proportionate tax for July and August 1952 in respect f lorry MDX 1838.

Rajaman

For Secretary.

s.a.23.11.

7041b

Tr I /54

17

Home (Tr.I) Dept.

G.O.Rt.No. 3784 d/ 21.12.54

M.Vs. - Taxation - South Kanara Dt. - Lorry MDX 1838 belonging to Sri N.M.Ra Refund of proportionate tax - Sanction

Read:

1) From the Bd. of Rev.Lr.B.P.Rt. 2397/54 d/13.5.1954.
2) from the Collr of S.Kanara Nr.D53672/5492
3) From the Secy., CRTB Letters No.22442/D2/54 dated 12.9.54 and 18-10-1954 and Letter No.46284/D2/54 dated 22.11.54

Order:

The Govt. sanction the refund of so much of the tax paid as is ~~the~~ in excess of two-fifths of the tax paid for the quarter-ending 30.9.1952 in respect of lorry MDX 1838 belonging to Sri N.M.Raw of the Rural Engineering Company, Kasargod, South Kanara Dist.

To the Collector of S.Kanara, Mangalore.
To the Bd. of Rev., Madras.5 (with ~~enc~~ recd. rela.)
To the Secy., C.R.T.B., Madras.8. (2)
To the A.G., Madras thro' Finance.
To the A.G. (by name marked as 'duplicate')
2 s.cs.

CENTRAL DESPATCH BRANCH
Despatched by ... Messenger.
Date 24/12/1954. Despatcher's Initials.

(C.No.70416-Tr.I/54)

Home (Transport.I) Dept.

MOTOR VEHICLES - Taxation - South Kanara District - Lorry MDX 1838 belonging to Sri N.M.Raw - Refund of proportionate tax.

From the Board of Revenue, Letter B.P.Rt.2397/54 dated 13.5.1954.

(Issued as Memo No.70416/Tr.I/54-1 dated 25.5.1954)

From the Collector of South Kanara, Letter M.L.Dis. 3672/54 dated 21.7.1954.

From the Secretary, C.R.T.B., Letters No.22442/D2/54 dated 12.9.1954 and ~~[illegible]~~ 18.10.54.

(Issued as Memo No.70416/Tr.I/54-2, dated ~~18-10-~~ 1-11-1954)

From the Secretary, C.R.T.B., Letter No.46284/D2/54 dated 22-11-1954.

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This file relates to the question of allowing refund of proportionate tax in respect of lorry MDX 1838 belonging to Sri N.M.Raw, Proprietor of the Rural Engineering Company, Kasargod in South Kanara District.

2. The lorry in question was garaged for repairs and overhaul till August 1952 and was taken out in the month of September 1952 after obtaining the certificate of fitness. The owner of the vehicle says that as required by the authorities, a sum of Rs.360/- was paid as tax for the entire quarter ended 30.9.1952 in the Sub-Treasury, Kasargod under chalan No.562 dated 9-9-1952. He adds that on 11.10.5[illegible] he surrendered the tax token and the duplicate of the chalan and applied for refund of excss tax paid for the months of July and August 1952, and that ~~after~~ ~~third reminder~~ ~~sending reminder dated 30.8.1953.~~ in July 1953 he was informed that his previous application had not been received and that as the application together with enclosures was not received in time, his application was rejected ~~in April 1953.~~ His subsequent request also was turned down in October 1953. He has thereupon applied to the Board of Revenue for enquiring into the loss of application along with tax token and duplicate chalan. The Board has recommended the sanction of the

p.t.o.

refund of the excess tax paid by the owner. The C.R.T.B. also recommends refund of the tax paid for the months of July and August 1952.

p15 c F

3. It may be seen from the above that the owner has made the following two complaints:-

(a) that he was required by the concerned authorities to pay the tax for the entire quarter ended 30.9.1952, instead for the last month of the quarter; and

cf 'S' on p3 c F.

(b) that he surrendered the tax token and the duplicate chaln No.562 dated 9-9-1952 while applying for refund of the excess tax on 10-10-1952, but they were reported to have not been received in the Collector's office.

para 3 on p3 c F

4. As regards (a) above, the A.D.M. has reported that there is nothing on records in the office of the Licensing Officer, Kasargod to show that the owner was directed to pay tax for the entire quarter ended 30.9.1952 in respect of the vehicle in question and that the owner's statement is not correct. In the circumstances, no further action seems necessary on this point.

p4 c F

cf p12 c F

cf p11c F.
Further action is not possible also
HB 5-Dec 54

In respect of (b) above, the A.D.M. has reported that the application for refund dated 11.10.1952 together with tax token and duplicate chalan was not received in his office and that action for refund of excess tax was taken by him on receipt of the application dated 2.12.1952 received on 3.1.1953. In the circumstances, no further action appears necessary on this point also, especially as no postal receipt has been produced by the owner

cf p p 3-4c F

Ibid

HB 5-Dec 54

5. With regard to the request for the refund of the proportionate tax, the Board of Revenue has stated that the owner has paid the quarterly tax before the expiry of the quarter, that the licence was issued to him on 9.9.1952, that the vehicle would not have been put on the road till he was granted licence, that the claim appears to be bona fide and that the owner is

p1c F

Ibid

70416
Tr I/54

1 2 F

Sm 2 F

15 F

If refund is granted as recommended by other regrets do not appear to be important, and no action need be taken on them.
H.
5 Dec 54

eligible for refund of the proportionate tax. The D.M. has no objection to the refund of tax. The Secretary, C.R.T.B. also has recommended refund of tax. In the circumstances, sanction may be accorded ~~for~~ to the refund of proportionate tax in respect of the vehicle MDX 1838.

Draft order submitted below is for approval. Finance may see before issue.

1.12.54.
do 2-12-54

HB
3/12/54

DS
H.
5 Dec 54

Fin

Home U.O. 70416/Tr I/54-3
6/12/54.

DEPUTY SECRETARY TO GOVERNMENT
120011
7 - DEC 1954
HOME DEPARTMENT

Fin. (Accts).
The draft order below may be accepted.

Fin
14.12.54
HB
14.12.54

Fin. U.O.
120011 Accts/54
15-12-54.

HB
15-12-54
Home

ASSISTANT SECRETARY TO GOVERNMENT
15 DEC 1954
HOME DEPARTMENT

Home Dept
The draft order below may now issue

issue
do 15/12/54
TA

HB
14/12/54

162749
/ 19/12

17 F

(Issued as G.O. Rt. No. 3784 Home d / 21.12.54)